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असाधारण

EXTRAORDINARY

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PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills have been introduced in the Rajya Sabha on the 12th February, 2019:—

I

BILL NO. X OF 2019

A Bill to provide for the establishment of an Authority to develop and regulate the financial services market in the International Financial Services Centres in India and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the International Financial Services Centres Authority Act, 2019.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette appoint; and different dates may be appointed for different provisions of this Act, and any reference in any provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. This Act shall apply to the International Financial Services Centres set up under section 18 of the Special Economic Zones Act, 2005.

Application.

Definitions.

3. In this Act, unless the context otherwise requires,—

(a) “appropriate regulator” means any financial sector regulator specified in the First Schedule to this Act;

(b) “Authority” means the International Financial Services Centres Authority established under sub-section (1) of section 4;

(c) “financial product” means—

(i) securities;

(ii) contracts of insurance;

(iii) deposits;

(iv) credit arrangements;

(v) foreign currency contracts other than contracts to exchange one currency for another that are to be settled immediately; and

(vi) any other product or instrument that may be notified by the Central Government from time to time;

(d) “financial service” means—

(i) buying, selling, or subscribing to a financial product or agreeing to do so;

(ii) acceptance of deposits;

(iii) safeguarding and administering assets consisting of financial products, belonging to another person, or agreeing to do so;

(iv) effecting contracts of insurance;

(v) offering, managing or agreeing to manage assets consisting of financial products belonging to another person;

(vi) exercising any right associated with a financial product or financial service;

(vii) establishing or operating an investment scheme;

(viii) maintaining or transferring records of ownership of a financial product;

(ix) underwriting the issuance or subscription of a financial product;

(x) providing information about a person’s financial standing or creditworthiness;

(xi) selling, providing, or issuing stored value or payment instruments or providing payment services;

(xii) making arrangements for carrying on any of the financial services in sub-clauses (i) to (xi);

(xiii) rendering or agreeing to render advice on or soliciting for the purposes of—

(A) buying, selling, or subscribing to, a financial product;

(B) availing any of the services in sub-clauses (i) to (xi); or

(C) exercising any right associated with a financial product or any of the services in clauses (i) to (xi);

(xiv) any other service that may be notified by the Central Government from time to time;

(e) “financial institution” means a unit set up in an International Financial Services Centre and which is engaged in rendering financial services in respect of any financial product;

42 of 1999.

(f) “foreign currency” shall have the meaning assigned to it in clause (m) of section 2 of the Foreign Exchange Management Act, 1999;

28 of 2005.

(g) “International Financial Services Centre” means an International Financial Services Centre set up, before or after the commencement of this Act, under section 18 of the Special Economic Zones Act, 2005;

(h) “Member” means a Member of the Authority and includes the Chairperson;

(i) “notification” means a notification published in the Official Gazette, and the terms “notified” and “notify” shall be construed accordingly;

(j) “prescribe” means prescribed by rules made by the Central Government under this Act;

(k) “regulations” means the regulations made by the Authority under this Act;

(l) words and expressions used and not defined in this Act but defined in the Acts specified under column (3) of the First Schedule to this Act shall have the meanings respectively assigned to them in those Acts.

CHAPTER II

ESTABLISHMENT OF AUTHORITY

4. (1) The Central Government shall, by notification, for the purposes of this Act, establish an Authority by the name of the International Financial Services Centres Authority.

Establishment
and
incorporation
of Authority.

(2) The Authority shall be a body corporate having perpetual succession and a common seal, and subject to the provisions of this Act, with power to enter into and execute contracts, acquire, hold and dispose of property, both movable and immovable, and shall, by the said name, sue and be sued.

(3) The head office of the Authority shall be at such place as the Central Government may, by notification, decide.

(4) The Authority may, with the prior approval of the Central Government, establish its offices at other places in India or outside India.

5. (1) The Authority shall consist of the following Members, to be appointed by the Central Government, namely:—

Composition of
Authority.

(a) a Chairperson;

(b) one Member each to be nominated by—

(i) the Reserve Bank of India, *ex officio*;

(ii) the Securities and Exchange Board of India, *ex officio*;

(iii) the Insurance Regulatory and Development Authority of India, *ex officio*; and

(iv) the Pension Fund Regulatory and Development Authority, *ex officio*;

(c) two Members, from amongst the officials of the Ministry dealing with Finance, to be nominated by the Central Government, *ex officio*; and

(d) two other Members to be appointed by the Central Government on the recommendation of a Selection Committee.

(2) The Chairperson shall be a whole-time Member and other Members referred to in clause (d) of sub-section (1) may be appointed as whole-time or part-time Members as the Central Government may deem fit.

(3) The Members shall be persons of ability, integrity and standing who have shown capacity in dealing with matters relating to financial sectors or have special knowledge or experience of law, finance, economics, accountancy, administration or in any other discipline which in the opinion of the Central Government, shall be useful to the Authority.

(4) The Selection Committee referred to in clause (d) of sub-section (1) shall consist of such members and constituted by the Central Government in such manner as may be prescribed.

Terms of office and conditions of service of Chairperson and other members.

6. (1) The Chairperson and a Member shall hold office for a term of three years from the date on which he enters upon his office and shall be eligible for re-appointment:

Provided that no person shall hold office as a Chairperson after he has attained the age of sixty-five years or as a whole-time member after he has attained the age of sixty-two years.

(2) The salary and allowances payable to, and other terms and conditions of service of, the Members, other than *ex officio* Members, shall be such as may be prescribed.

(3) Notwithstanding anything in sub-section (1), a Member may—

(a) resign from his office by giving in writing to the Central Government a notice of not less than three months; or

(b) be removed from his office in accordance with the provisions of section 6.

(4) No Member, other than *ex officio* Member, shall, for a period of two years from the date on which they cease to hold office as such, except with the previous approval of the Central Government, accept—

(a) any employment either under the Central Government or under any State Government; or

(b) appointment in any financial institution in the International Financial Services Centres.

Removal of a Member from office.

7. The Central Government may remove from office a Member, who—

(a) is, or at any time has been, adjudged as insolvent; or

(b) has become physically or mentally incapable of acting as a Member; or

(c) has been convicted of an offence which in the opinion of the Central Government involves moral turpitude; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or

(e) has so abused his position so as to render his continuance in office detrimental to public interest:

Provided that no Member shall be removed from office under clause (d) or (e) unless he has been given a reasonable opportunity of being heard in the matter.

Meetings of Authority.

8. (1) The Authority shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be provided by regulations.

(2) The Chairperson, if for any reason, is unable to attend a meeting of the Authority, any other Member chosen by the Members present from amongst themselves at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority of votes of the Members present and voting, and, in the event of an equality of votes, the Chairperson, or in his absence, the person presiding, shall have a casting vote.

(4) Any Member who has any direct or indirect interest in any matter likely to come up for consideration at a meeting of the Authority shall, as soon as possible after the relevant circumstances have come to his knowledge, disclose in writing, the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Authority and such Member shall not take part in any deliberation or decision of the Authority with respect to that matter.

9. No act or proceeding of the Authority shall be invalid merely by reason of,—

(a) any vacancy or defect, in the constitution of the Authority; or

(b) any defect in the appointment of a person as a member of the Authority.

Vacancies, etc., not to invalidate proceedings of Authority.

10. The Chairperson shall have the powers of general superintendence and direction in respect of all administrative matters of the Authority.

Administrative powers of Chairperson.

11. (1) The Authority may appoint such officers and other employees as it considers necessary for the efficient discharge of its functions under this Act.

Officers and other employees of Authority.

(2) The salary and allowances payable to, and other terms and conditions of service of, officers and other employees of the Authority appointed under sub-section (1) shall be such as may be determined by the regulations.

CHAPTER III

POWERS AND FUNCTIONS OF AUTHORITY

12. (1) Subject to the provisions of this Act, it shall be the duty of the Authority to develop and regulate the financial products, financial services and financial institutions in the International Financial Services Centres, by such measures as it deems fit.

Functions of Authority.

(2) Without prejudice to the generality of the provisions in sub-section (1), the powers and functions of the Authority shall include—

(a) regulating the financial products, financial services and financial institutions in an International Financial Services Centre which have been permitted, before the commencement of this Act, by any regulator for any International Financial Services Centre;

(b) regulating such other financial products, financial services or financial institutions in the International Financial Services Centres as may be notified by the Central Government from time to time;

(c) recommending to the Central Government such other financial products, financial services and financial institutions which may be permitted in an International Financial Service Centre by the Central Government;

(d) perform such other functions as may be prescribed.

13. (1) Notwithstanding anything in any other law for the time being in force, all powers exercisable by an appropriate regulator, specified under column (2) of the First Schedule, under the respective Acts as specified in the corresponding entry under column (3) of the said Schedule shall, in the International Financial Services Centres, be exercised by the Authority in so far as it relates to the regulation of the financial products, financial services or financial institutions, as the case may be.

Powers of Authority in relation to financial products, financial services and financial institutions.

(2) The Central Government may, by notification, amend the First Schedule by including therein any financial sector regulator and the law administered by it, or omitting therefrom any financial sector regulator or law specified therein, and on the publication of such notification, such regulator and the law shall be deemed to be included in, or omitted from, the First Schedule.

(3) Every notification issued under sub-section (2) shall be laid before each House of Parliament.

(4) For the purposes of sub-section (1), the provisions of the respective Acts specified under column (3) of the First Schedule relating to—

(a) the manner of filing an application for recognition or registrations or withdrawal of recognition or registration or furnishing of information or reports;

(b) the procedure of inspection, investigation or prosecution of offences, settlement of civil and administrative proceedings, compounding or adjudication of any offence or penalty, or actions to be taken in furtherance of such inspection, investigation, or adjudication or filing of appeals arising therefrom;

(c) the determination or settlement, as the case may be, of any fee or fine or penalty or any other sum of amount or punishment for the contravention of any provisions of respective Acts specified in the First Schedule and recovery of such fine or penalty,

shall, *mutatis mutandi*, apply to financial products, financial services and financial institutions under this Act, as they apply to the financial products, financial services and financial institutions under such respective Acts.

(5) The penalties, fines, fees and settlement amounts shall be collected or realised in the foreign currency equivalent of the penalty or fine imposed.

Explanation.— The rate of exchange for computing the foreign currency equivalent to Indian rupees shall be such as are notified by the Reserve Bank of India on the date of the order imposing the penalty or fine as the case may be.

(6) All sums realised by way of penalties or fines under this Act shall be credited to the Consolidated Fund of India in Indian Rupees.

(7) The Authority may, in addition to the above, specify by regulations the manner in which the functions may be performed by the Authority for carrying out the provisions of this section.

CHAPTER VI

FINANCE, ACCOUNTS AND AUDIT

Grants by
Central
Government.

14. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority grants of such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

Fund of
Authority.

15. (1) There shall be constituted a Fund to be called the International Financial Services Centres Authority Fund and there shall be credited thereto—

(a) all grants, fees and charges received by the Authority under this Act; and

(b) all sums received by the Authority from the sources as may be decided upon by the Central Government.

(2) The fund shall be applied for meeting—

(a) the salaries, allowances and other remuneration of Members, officers and other employees of the Authority; and

(b) other expenses incurred by the Authority in connection with the discharge of its functions and for the purposes of this Act.

Accounts and
audit.

16. (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Authority shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.

(4) The accounts of the Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

17. (1) The Authority shall constitute a Performance Review Committee, consisting of at least two Members of the Authority to review the functioning of the Authority, whether—

Performance
Review
Committee.

(a) it has adhered to the provisions of the applicable laws while exercising powers or performing functions under this Act;

(b) the regulations made by the Authority to give effect to the provisions of this Act promote transparency and best practices of governance; and

(c) the Authority is managing risks to its functioning in a reasonable manner.

(2) The Performance Review Committee shall make the review under sub-section (1) at least once in every financial year, and submit a report of its findings to the Authority which shall forward a copy thereof along with action taken, if any, pursuant to such report to the Central Government within a period of three months of the date of receipt of the report.

(3) The Performance Review Committee shall maintain a system by which any person may submit to the committee, any incidence of—

(a) non-adherence of the provisions of any applicable law by the Authority;

(b) misappropriation of resources of the Authority by any person;

(c) abuse of powers of the Authority by any Member or employee of the Authority;

or

(d) non-compliance of any decision of the Authority by any Member or employee of the Authority.

(4) The Authority shall make regulations governing the information to be provided to the Performance Review Committee, and the provision of adequate resources to enable the committee to discharge its functions under this section.

18. (1) The Authority shall maintain such website or any other universally accessible repository of electronic information as may be specified by regulations.

Maintenance of
website.

(2) All the regulations and orders issued by the Authority shall be published in its website or repository maintained under sub-section (1).

(3) The Authority shall review the quality of the website or the repository, based on international best practices, once every year and publish the report containing its findings with the annual report.

19. (1) The Authority shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the development and regulation of the units in the International Financial Services Centres, as the Central Government may, from time to time, require.

Returns and
Reports.

(2) Without prejudice to the provisions of sub-section (1), the Authority shall, within ninety days after the end of each financial year, submit to the Central Government, a report in such form, as may be prescribed, giving a true and full account of its activities, policy and programmes during the previous financial year.

(3) A copy of the report received under sub-section (2) shall be laid, as soon as may be after it is received, before each House of Parliament.

CHAPTER VII

FOREIGN EXCHANGE TRANSACTIONS

Transactions in foreign currency.

20. Every transaction of financial services in an International Financial Services Centre shall be in such foreign currency as may be specified by regulations by the Authority in consultation with the Central Government.

CHAPTER VIII

MISCELLANEOUS

Power to issue directions.

21. (1) Without prejudice to the foregoing provisions of this Act, the Authority shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government, whether a question is one of policy or not, shall be final.

Power of Central Government to supersede Authority.

22. (1) If at any time the Central Government is of the opinion that—

(a) on account of circumstances beyond the control of the Authority, it is unable to discharge the functions or perform the duties imposed on it by or under this Act; or

(b) the Authority has persistently defaulted in complying with any direction given by the Central Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under this Act and as a result of such default the financial position of the Authority or the administration of the Authority has deteriorated; or

(c) circumstances exist which render it necessary in the public interest so to do, the Central Government may, by notification and for reasons to be specified therein, supersede the Authority for such period, not exceeding six months, as may be specified in the notification:

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Authority to make representations against the proposed supersession and shall consider the representations, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority,—

(a) the Chairperson and other Members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under this Act, be exercised or discharged by or on behalf of the Authority shall, until the Authority is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct; and

(c) all properties owned or controlled by the Authority shall, until the Authority is reconstituted under sub-section (3), vest in the Central Government.

(3) On or before the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government shall reconstitute the Authority by a fresh appointment of its Chairperson and other Members and in such case any person who had vacated his office under clause (a) of sub-section (2) shall not be deemed to be disqualified for reappointment.

(4) The Central Government shall, as soon as may be, cause a copy of the notification issued under sub-section (1) and a full report to any action taken by it, to be laid before each House of Parliament.

23. (1) The Authority may, by general or special order in writing, delegate to any Member or officer of the Authority subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the powers under section 27) as it may deem necessary.

Delegation of powers.

(2) The Authority may, by a general or special order in writing, also form committees of the Members and delegate to them the powers and functions of the Authority, as may be specified by regulations.

24. The Members, officers, and employees of the Authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

Members, officers and employees of the Authority to be public servants.

25. No suit, prosecution or other legal proceedings shall lie against the Central Government or the Authority or its Members, officers or other employees, for anything which is done, or intended to be done, in good faith under this Act.

Protection of action taken in good faith.

26. Nothing contained in any other law or enactment for the time being in force, in relation to taxation, including the Income Tax Act, 1961, shall make the Authority liable to pay income tax or any other tax or duty with respect to its income, services or profits or gains.

Exemption from tax on wealth and income.

27. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the composition and the manner of constitution of the Selection Committee under sub-section (4) of section 5;

(b) the salary and allowances and other terms and conditions of service of Members under sub-section (2) of section 6;

(c) other functions to be performed by the Authority under clause (d) of sub-section (2) of section 12;

(d) the form in which the accounts and other relevant records to be maintained and annual statement of accounts to be furnished under sub-section (1) of section 16;

(e) the form and manner of furnishing of returns and statements and other particulars under sub-section (1) of section 19;

(f) the form of annual report of activities, policy and programmes under sub-section (2) of section 19;

(g) any other matter which is to be, or may be, prescribed.

28. (1) The Authority may, by notification, make regulations consistent with this Act and the rules made thereunder for carrying out the provisions of this Act.

Power to make regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the time and place of meetings and the rules of procedure in regard to transaction of business at such meetings under sub-section (1) of section 8;

(b) the salary and allowances and other terms and conditions of service of officers and other employees of Authority under sub-section (2) of section 11;

45 of 1860.

43 of 1961.

(c) the manner in which the Authority may perform its functions under sub-section (7) of section 13;

(d) the manner of providing information to the Performance Review Committee under sub-section (4) of section 17;

(e) the foreign currency in which transaction of financial services in International Financial Services Centres may be conducted under section 20;

(f) the powers and functions of the Authority which may be delegated under sub-section (2) of section 23;

(g) any other matter which is required to be, or may be specified by regulations.

Rules and regulations to be laid before Parliament.

29. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Overriding effect.

30. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Power to modify provisions of other enactments in relation to International Financial Services Centres.

31. (1) The Central Government may, by notification, direct that any of the provisions of any other Central Act or any rules or regulations made thereunder or any notification or order issued or direction given thereunder (other than the provisions relating to making of the rules or regulations) specified in the notification—

(a) shall not apply to financial products, financial services or financial institutions, as the case may be, in an International Financial Services Centres; or

(b) shall apply to financial products, financial services or financial institutions, as the case may be, in an International Financial Services Centre with such exceptions, modifications and adaptations, as may be specified in the notification.

(2) A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.

Power to remove difficulties.

32. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of five years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Amendment to certain enactments.

33. The enactments specified in the Second Schedule shall be amended in the manner specified therein.

34. All rules and regulations made or purporting to have been made or all notifications issued or purporting to have been issued under any Central Act relating to the financial products, financial services or financial institutions, as the case may be, shall, in so far as they relate to matters for which provision is made in this Act or the rules or regulations made or notification issued thereunder and are not inconsistent therewith, be deemed to have been made or issued under this Act as if this Act had been in force on the date on which such rules were made or notifications were issued and shall continue to be in force unless and until they are superseded by any rules or regulations made or notifications issued under this Act. Savings.

THE FIRST SCHEDULE

[See section 3(a) and 13(I) and (2)]

APPROPRIATE REGULATORS

Sl. No. Appropriate Regulator		Respective Acts
(1)	(2)	(3)
1.	The Reserve Bank of India constituted under the Reserve Bank of India Act, 1934 (2 of 1934);	1. The Reserve Bank of India Act, 1934 (2 of 1934) 2. The Banking Regulation Act, 1949 (10 of 1949) 3. The Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961) 4. The Foreign Exchange Management Act, 1999 (42 of 1999) 5. Credit Information Companies (Regulation) Act, 2005 (30 of 2005) 6. The Government Securities Act, 2006 (38 of 2006) 7. The Payment and Settlement Systems Act, 2007 (51 of 2007)
2.	The Securities and Exchange Board of India established under the Securities and Exchange Board of India Act, 1992 (15 of 1992)	8. The Securities Contracts (Regulation) Act, 1956 (42 of 1956) 9. The Securities and Exchange Board of India Act, 1992 (15 of 1992) 10. The Depositories Act, 1996 (22 of 1996)
3.	The Insurance Regulatory and Development Authority of India constituted under the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999)	11. The Insurance Act, 1938 (4 of 1938) 12. General Insurance Business (Nationalisation) Act, 1972 (57 of 1972) 13. The Insurance Regulatory and Development Authority Act, 1999 (41 of 1999)
4.	The Pension Fund Regulatory and Development Authority constituted under the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013)	14. The Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013)

THE SECOND SCHEDULE

[See section 33]

AMENDMENT TO CERTAIN ENACTMENTS

PART I

AMENDMENT TO RESERVE BANK OF INDIA ACT, 1934

(2 OF 1934)

After section 57, the following section shall be inserted, namely:—

Insertion of new section after section 57.

“57A. Notwithstanding anything in any other law for the time being in force, the powers exercisable by the Bank under this Act,—

Powers of Bank not to apply to International Financial Services Centres.

(a) shall not extend to an International Financial Services Centre set up under sub-section (1) of section 18 of the Special Economic Zones Act, 2005,

(b) shall be exercisable by the International Financial Services Centres Authority established under sub-section (1) of section 4 of the International Financial Services Centres Authority Act, 2019,

in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centre are concerned.”.

PART II

AMENDMENT TO THE INSURANCE ACT, 1938

(4 OF 1938)

After section 118, the following new section shall be inserted, namely:—

Insertion of new section after section 118.

“118A. Notwithstanding anything contained in any other law for the time being in force, the powers exercisable by the Authority under this Act,—

Powers of Authority not to apply to International Financial Services Centre.

(a) shall not extend to an International Financial Services Centre set up under sub-section (1) of section 18 of the Special Economic Zones Act, 2005,

(b) shall be exercisable by the International Financial Services Centres Authority established under sub-section (1) of section 4 of the International Financial Services Centres Authority Act, 2019,

in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centre are concerned.”.

PART III

AMENDMENT TO BANKING REGULATION ACT, 1949

(10 OF 1949)

After section 51, the following new section shall be inserted, namely:—

Insertion of new section after section 51.

Powers of Reserve Bank not to apply to International Financial Services Centres.

“51A. Notwithstanding anything contained in any other law for the time being in force, the powers exercisable by the Reserve Bank under this Act,—

(a) shall not extend to an International Financial Services Centre set up under sub-section (I) of section 18 of the Special Economic Zones Act, 2005,

(b) shall be exercisable by the IFSC Authority established under sub-section (I) of section 4 of the International Financial Services Centres Authority Act, 2019,

in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centre are concerned.”.

PART IV

AMENDMENT TO THE SECURITIES CONTRACTS (REGULATION) ACT, 1956

(42 OF 1956)

Insertion of new section after section 29A.

After section 29A, the following new section shall be inserted, namely:—

Powers of the Securities and Exchange Board of India not to apply to International Financial Services Centre.

“29B. Notwithstanding anything contained in any other law for the time being in force, the powers exercisable by the Securities and Exchange Board of India under this Act,—

(a) shall not extend to an International Financial Services Centre set up under sub-section (I) of section 18 of the Special Economic Zones Act, 2005,

(b) shall be exercisable by the International Financial Services Centres Authority established under sub-section (I) of section 4 of the International Financial Services Centres Authority Act, 2019,

in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centre are concerned.”.

PART V

AMENDMENT TO THE DEPOSIT INSURANCE AND CREDIT GUARANTEE CORPORATION ACT, 1961

(47 OF 1961)

Insertion of new section after section 43.

After section 43, the following new section shall be inserted, namely:—

Powers of Reserve Bank not to apply to International Financial Services Centre.

“43A. Notwithstanding anything contained in any other law for the time being in force, the powers exercisable by the Reserve Bank under this Act,—

(a) shall not extend to an International Financial Services Centre set up under sub-section (I) of section 18 of the Special Economic Zones Act, 2005,

(b) shall be exercisable by the International Financial Services Centres Authority established under sub-section (I) of section 4 of the International Financial Services Centres Authority Act, 2019,

in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centre are concerned.”.

PART VI

AMENDMENT TO GENERAL INSURANCE BUSINESS (NATIONALISATION) ACT, 1972
(57 OF 1972)

After section 38, the following new section shall be inserted, namely:—

Insertion of new section after section 38.

“38A. Notwithstanding anything contained in any other law for the time being in force, the powers exercisable by the Insurance Regulatory and Development Authority of India under this Act,—

Powers of Insurance Regulatory and Development Authority of India not to apply to International Financial Services Centre.

(a) shall not extend to an International Financial Services Centre set up under sub-section (1) of section 18 of the Special Economic Zones Act, 2005,

(b) shall be exercisable by the International Financial Services Centres Authority established under sub-section (1) of section 4 of the International Financial Services Centres Authority Act, 2019,

in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centre are concerned.”.

PART VII

AMENDMENT TO SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992
(15 OF 1992)

After section 28B, the following new section shall be inserted, namely:—

Insertion of new section after section 28B.

“28C. Notwithstanding anything contained in any other law for the time being in force, the powers exercisable by the Board under this Act,—

Powers of Board not to apply to International Financial Services Centre.

(a) shall not extend to an International Financial Services Centre set up under sub-section (1) of section 18 of the Special Economic Zones Act, 2005,

(b) shall be exercisable by the International Financial Services Centres Authority established under sub-section (1) of section 4 of the International Financial Services Centres Authority Act, 2019,

in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centre are concerned.”.

PART VIII

AMENDMENT TO THE DEPOSITORIES ACT, 1996
(22 OF 1996)

After section 23F, the following new section shall be inserted, namely:—

Insertion of new section after section 23F.

“23G. Notwithstanding anything contained in any other law for the time being in force, the powers exercisable by the Board under this Act,—

Powers of Board not to apply to International Financial Services Centre.

(a) shall not extend to an International Financial Services Centre set up under sub-section (1) of section 18 of the Special Economic Zones Act, 2005,

(b) shall be exercisable by the International Financial Services Centres Authority established under sub-section (1) of section 4 of the International Financial Services Centres Authority Act, 2019,

in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centre are concerned.”.

PART IX

AMENDMENT TO THE INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY ACT, 1999
(41 OF 1999)

Insertion of
new section
after section
23.

After section 23, the following new section shall be inserted, namely:—

Powers of
Authority not to
apply to
International
Financial
Services
Centre.

“23A. Notwithstanding anything contained in any other law for the time being in force, the powers exercisable by the Authority under this Act,—

(a) shall not extend to an International Financial Services Centre set up under sub-section (I) of section 18 of the Special Economic Zones Act, 2005,

(b) shall be exercisable by the International Financial Services Centres Authority established under sub-section (I) of section 4 of the International Financial Services Centres Authority Act, 2019,

in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centre are concerned.”.

PART X

AMENDMENT TO FOREIGN EXCHANGE MANAGEMENT ACT, 1999
(42 OF 1999)

Insertion of
new section
after section
44.

After section 44, the following new section shall be inserted, namely:—

Powers of
Reserve Bank
not to apply to
International
Financial
Services Centre.

“44A. Notwithstanding anything contained in any other law for the time being in force, the powers exercisable by the Reserve Bank under this Act,—

(a) shall not extend to an International Financial Services Centre set up under sub-section (I) of section 18 of the Special Economic Zones Act, 2005,

(b) shall be exercisable by the International Financial Services Centres Authority established under sub-section (I) of section 4 of the International Financial Services Centres Authority Act, 2019,

in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centre are concerned.”.

PART XI

AMENDMENT TO CREDIT INFORMATION COMPANIES (REGULATION) ACT, 2005
(30 OF 2005)

Insertion of
new section
after section
33.

After section 33, the following new section shall be inserted, namely:—

Powers of
Reserve Bank
not to apply to
International
Financial
Services Centre.

“33A. Notwithstanding anything contained in any other law for the time being in force, the powers exercisable by the Reserve Bank under this Act,—

(a) shall not extend to an International Financial Services Centre set up under sub-section (I) of section 18 of the Special Economic Zones Act, 2005,

(b) shall be exercisable by the International Financial Services Centres Authority established under sub-section (I) of section 4 of the International Financial Services Centres Authority Act, 2019,

in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centre are concerned.”.

PART XII

AMENDMENT TO GOVERNMENT SECURITIES ACT, 2006
(38 OF 2006)

After section 31, the following new section shall be inserted, namely:—

Insertion of new section after section 31.

“31A. Notwithstanding anything contained in any other law for the time being in force, the powers exercisable by the Bank under this Act,—

Powers of Bank not to apply to International Financial Services Centres.

(a) shall not extend to an International Financial Services Centre set up under sub-section (1) of section 18 of the Special Economic Zones Act, 2005,

(b) shall be exercisable by the IFSC Authority established under sub-section (1) of section 4 of the International Financial Services Centres Authority Act, 2019,

in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centre are concerned.”.

PART XIII

AMENDMENT TO PAYMENT AND SETTLEMENT SYSTEMS ACT, 2007
(51 OF 2007)

After section 34A, the following new section shall be inserted, namely:—

Insertion of new section after section 34A.

“34B. Notwithstanding anything contained in any other law for the time being in force, the powers exercisable by the Reserve Bank under this Act,—

Powers of Reserve Bank not to apply to International Financial Services Centre.

(a) shall not extend to an International Financial Services Centre set up under sub-section (1) of section 18 of the Special Economic Zones Act, 2005,

(b) shall be exercisable by the International Financial Services Centres Authority established under sub-section (1) of section 4 of the International Financial Services Centres Authority Act, 2019,

in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centre are concerned.”.

PART XIV

AMENDMENT TO THE PENSION FUND REGULATORY AND DEVELOPMENT AUTHORITY ACT, 2013
(23 OF 2013)

After section 50, the following new section shall be inserted, namely:—

Insertion of new section after section 50.

“50A. Notwithstanding anything contained in any other law for the time being in force, the powers exercisable by the Authority under this Act,—

Powers of Authority not to apply to International Financial Services Centre.

(a) shall not extend to an International Financial Services Centre set up under sub-section (1) of section 18 of the Special Economic Zones Act, 2005,

(b) shall be exercisable by the International Financial Services Centres Authority established under sub-section (1) of section 4 of the International Financial Services Centres Authority Act, 2019,

in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centre are concerned.”.

STATEMENT OF OBJECTS AND REASONS

Section 18 of the Special Economic Zones Act, 2005 (28 of 2005) provides that the Central Government may approve the setting up of an International Financial Services Centre in a Special Economic Zone and may prescribe the requirements for setting up and operation of such Centre.

2. The first International Financial Services Centre in India has been set up at GIFT City in Gandhinagar, Gujarat. An International Financial Services Centre enables bringing back the financial services and transactions that are currently carried out in offshore financial centres by Indian corporate entities and overseas branches and subsidiaries of financial institutions to India by offering world class business and regulatory environment. It would enable Indian corporates easier access to global financial markets.

3. Currently, the banking, capital markets and insurance sectors in International Financial Services Centres are regulated by multiple regulators such as the Reserve Bank of India, Securities and Exchange Board of India, Insurance Regulatory and Development Authority of India. These regulators have issued various regulations and guidelines under respective Acts for regulation of banking, capital markets and insurance business in International Financial Services Centres.

4. The development of financial products and services in International Financial Services Centres require focused and dedicated regulatory interventions and require a high level inter-regulatory coordination. It is, therefore, decided to establish a unified financial regulator to provide world class regulatory environment to such financial market participants and promote ease of doing business.

5. Accordingly, the International Financial Services Centres Authority Bill, 2019, *inter alia*, provides—

(a) for the establishment of the International Financial Services Centres Authority (the Authority) to develop and regulate the financial services market in the International Financial Services Centres in India;

(b) that the powers and functions of the financial sector regulators under the respective Acts shall be exercised and performed by the Authority in so far as they relate to the regulation of financial products, financial services and financial institutions in the International Financial Services Centres;

(c) that every transaction of financial services in the International Financial Services Centres shall be in such foreign currency as may be specified by the Authority in consultation with the Central Government;

(d) for the constitution of a Performance Review Committee consisting of at least two members of the Authority for review of the functioning of the Authority on annual basis;

(e) for amendment of certain enactments which are considered necessary for the purposes of proposed legislation.

6. The Notes on clauses explain in detail the various provisions in the Bill.

7. The Bill seeks to achieve the above objects.

PIYUSH GOYAL.

Notes on clauses

Clause 1.—This clause provides for the short title and commencement of the proposed legislation.

Clause 2.—This clause provides for the application of the proposed legislation to the International Financial Services Centres set up under section 18 of the Special Economic Zones Act, 2005.

Clause 3.—This clause provides for the definition of the expressions used in the Bill such as “appropriate regulator”, “Authority”, “financial product”, “financial institution”, “foreign currency”, “International Financial Services Centre”, “Member”, “notification”, “prescribe” and “regulations”.

Clause 4.— This clause provides for the establishment and incorporation of Authority. It provides that the Central Government shall by notification establish an authority to be called the International Financial Services Centres Authority as a body corporate. It further provides that the head office of the Authority shall be at such place as the Central Government may, by notification, decide and it may establish offices at other places in India or outside India with the prior approval of Central Government.

Clause 5.—This clause provides for the composition of the Authority. It provides that the Authority shall consists of a Chairperson, one member each to be nominated by the Reserve Bank of India, the Securities and Exchange Board of India, the Insurance Regulatory and Development Authority of India, the Pension Fund Regulatory and Development Authority, two Members, from amongst the officials of the Ministry dealing with Finance and two other Members to be appointed by the Central Government on the recommendation of a Selection Committee.

Clause 6.—This clause provides for term of office and conditions of service of the Chairperson and other members of the Authority. It provides that the Chairperson and every other member shall hold office for a term of three years from the date on which he enters upon his office and shall be eligible for reappointment. However, no person shall hold office as a Chairperson after he has attained the age of sixty-five years and no person shall hold office as a whole-time member after he has attained the age of sixty-two years.

It further provides that the salary and allowances payable to, and other terms and conditions of service of the members other than *ex officio* member shall be such as may be prescribed. It also provides that a member may resign from his office by giving in writing to the Central Government, a notice of not less than three months or may be removed from his office in accordance with the provisions of clause 7. It also provides restriction on the future employment of members other than *ex officio* members.

Clause 7.—This clause provides for removal of members from office. It provides that the Central Government may remove any Member on the grounds of insolvency, physical or mental incapacity, conviction of an offence involving moral turpitude, acquisition of financial or other interest prejudicial to his functions as a member or abuse of position. It further provides that no member shall be removed on certain grounds, unless he has been given a reasonable opportunity of being heard in the matter.

Clause 8.—This clause provides for meetings of Authority.

Clause 9.—This clause provides for vacancies, etc., not to invalidate proceedings of Authority.

Clause 10.—This clause provides for administrative powers of Chairperson. It provides that he shall have the powers of general superintendence and direction in respect of all administrative matters of the Authority.

Clause 11.—This clause provides for officers and employees of Authority. It provides that the Authority may appoint such officers and other employees as may be necessary for the efficient discharge of its functions under the proposed legislation. It further provides that the terms and other conditions of service of its officers and employees shall be such as may be specified by regulations.

Clause 12.— This clause provides for functions of the Authority. It provides that the functions of the Authority include power to regulate the financial products, financial services and financial institutions in an International Financial Services Centre which have been permitted by any regulator for any International Financial Services Centre; such other financial products, financial services or financial institutions in the International Financial Services Centres as may be notified by the Central Government from time to time, recommendations to the Central Government such other financial products, financial services and financial institutions which may be permitted in an International Financial Service Centre by the Central Government and perform such other functions as may be prescribed.

Clause 13.— This clause provides for powers of Authority in relation to financial products, financial services and financial institutions. It provides that all powers exercisable by an appropriate regulator under the respective Acts specified under the First Schedule shall, in the International Financial Services Centres, be exercised by the Authority in so far as it relate to the regulation of the financial products, financial services or financial institutions, as the case may be. It further confers power upon the Central Government to amend the First Schedule by including or omitting therefrom any financial sector regulator or any law by notification which shall be laid before each House of Parliament.

It also provides that the provisions of the respective Acts relating to certain matter specified therein shall, *mutatis mutandis*, apply to financial products, financial services and financial institutions under the proposed legislation, as they apply to the financial products, financial services and financial institutions under such respective Acts. It also provides that the penalties, fines, fees and settlement amounts shall be collected or realised in the foreign currency and deposited in Consolidated Fund of India in Indian Rupee equivalence.

Clause 14.—This clause provides for grants by Central Government. It provides that the Central Government may make grants of such sums to the Authority after due appropriation by law made by Parliament, to be utilised for the purposes of the proposed legislation.

Clause 15.—This clause provides for constitution of the International Financial Services Centres Authority Fund to which all grants fees and charges received by the Authority under this Act and all sums received by the Authority from the sources as may be decided upon by the Central Government be credited to the Fund. It further provides that the Fund shall be applied for the salaries, allowances and other remuneration of Members, officers and other employees of the Authority and other expenses incurred by the Authority in connection with the discharge of its functions and for the purposes of this Act.

Clause 16.—This clause provides for accounts and audit of the Authority. It provides that the Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts according to rules made by the Central Government in consultation with the Comptroller and Auditor-General of India. It further provides that the accounts of the Authority shall be audited by the Comptroller and Auditor-General of India.

It also provides that the Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Authority shall have the same rights, privileges and authority as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and can demand the production of books, accounts and other documents and inspect any of the offices of the Authority. It also provides that the audited accounts and the audit report of the Authority have to be forwarded annually to the Central Government which then has to lay them before each House of Parliament.

Clause 17.—This clause provides for Performance Review Committee. It provides that Authority shall constitute a Performance Review Committee consisting of at least two Members of the Authority to review the functioning of the Authority. It further provides that the Performance Review Committee shall make the review at least once in every financial year, and submit a report of its findings to the Authority which shall forward a copy thereof along with action taken, if any, pursuant to such report to the Central Government within a period of three months of the date of receipt of the report.

Clause 18.—This clause provides for the maintenance of website or any other universally accessible repository of electronic information as may be specified by regulations.

Clause 19.—This clause provides for furnishing of returns, etc., to Central Government. It provides that the Authority shall furnish to the Central Government returns, statements and other particulars in regard to any proposed or existing programme for the promotion and development and regulation of the units in the International Financial Services Centres as required by Central Government. It further provides that the Authority shall, within ninety days after the close of each financial year, submit to the Central Government a report on its activities during the previous financial year, including the activities, policy and programmes under the proposed legislation. It also provides that copies of the reports shall be laid, as soon as possible, after they are received, before each House of Parliament.

Clause 20.— This clause provides that every transaction of financial services in an International Financial Services Centre shall be in such foreign currency as may be specified by regulations by the Authority in consultation with the Central Government.

Clause 21.—This clause provides for power to issue directions. It confers power upon the Central Government to issue directions to the Authority which shall be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time. However, before or after passing such directions, the Authority shall be given an opportunity of hearing.

Clause 22.—This clause provides for supersession of the Authority by Central Government. It confers power upon the Central Government to supersede the Authority for a maximum period of six months by issuing a notification, if it is of the opinion that the Authority is unable to discharge its functions or perform its duties on account of circumstances beyond its control or if the Authority has persistently defaulted in complying with any direction issued by the Central Government or in the discharge of its functions or performance of its duties and as a result of such default, the financial position of the Authority or the administration of the Authority has deteriorated; or circumstances exist which render it necessary in the public interest. However, before issuing any such notification, the Central Government has to give a reasonable opportunity to the Authority to make representations against the proposed supersession and consider any representations of the Authority.

It further provides that when the notification superseding the Authority is published, the Chairperson and other members shall vacate their offices as from the date of supersession and all the powers, functions and duties of the Authority shall be exercised and discharged by such person as the Central Government may direct and all properties owned or controlled by the Authority shall vest in the Central Government, until the Authority is reconstituted.

It also provides that the Central Government shall reconstitute the Authority on or before the expiration of the period of supersession specified in the notification. It also provides that the Central Government shall, as soon as possible place a copy of the notification regarding supersession of the Authority and a full report of any action taken by it, before each House of Parliament.

Clause 23.—This clause provides for delegation of powers by Authority. It provides that the Authority may delegate its powers (other than the power to make regulations) and functions by general or special order in writing, to any member, officer of the Authority or any other person subject to conditions, if any, specified in the order. It further provides that

the Authority may, by a general or special order in writing, also form committees of the members and delegate to them the powers and functions of the Authority as may be specified by the regulations.

Clause 24.—This clause provides that the Chairperson, other members, officers and other employees of the Authority shall be deemed to be public servants, when carrying out any of the provisions of the proposed legislation.

Clause 25.—This clause provides that no prosecution or other legal proceedings can be instituted against the Central Government or the Authority or any of their officers, etc., for anything done in good faith under the proposed legislation or the rules or regulations made thereunder.

Clause 26.—This clause seeks to exempt the Authority from tax on wealth, income, services or profits and gains.

Clause 27.—This clause provides for power of the Central Government to make rules.

Clause 28.—This clause provides for powers of the Authority to make regulations.

Clause 29.—This clause provides for laying rules and regulations before each House of Parliament.

Clause 30.—This clause provides for overriding effect of the proposed legislation.

Clause 31.—This clause provides for power to modify provisions of other enactments in relation to International Financial Service Centres.

Clause 32.—This clause provides for removal of difficulties.

Clause 33.—This clause provides for amendment of certain enactments specified in the Second Schedule in the manner specified therein.

Clause 34.—This clause provides for savings. It provides that all rules and regulations made or purporting to have been made or all notifications issued or purporting to have been issued under any Central Act relating to the financial products, financial services or financial institutions, as the case may be, shall, in so far as they relate to matters for which provision is made in this Act or the rules or regulations made or notification issued thereunder and are not inconsistent therewith, be deemed to have been made or issued under this Act as if this Act had been in force on the date on which such rules were made or notifications were issued and shall continue to be in force unless and until they are superseded by any rules or regulations made or notifications issued under this Act.

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides that the Central Government may, from such date as may be appointed by it, establish for the purposes of the proposed legislation an Authority to be called the International Financial Services Centres Authority. Sub-clause (2) of clause 6 of the Bill provides that the Central Government shall prescribe the salary, allowances and other terms and conditions of service of the Chairperson and other members of the Authority. Clause 11 of the Bill provides that the Authority shall appoint officers and other employees as it considers necessary for the efficient discharge of its functions under the proposed legislation and frame regulations regarding their salary allowances and other terms and conditions of service.

2. Clause 14 of the Bill provides that the Central Government may make grants to the Authority to be utilised for the purposes of the proposed legislation, after due appropriation made by Parliament by law.

3. Sub-clause (1) of clause 15 of the Bill provides for the constitution of a fund to be called the International Financial Services Centres Authority Fund into which all Government grants, fees and charges received by the Authority and all sums received by the Authority from other sources decided by the Central Government shall be credited.

4. It is estimated that there would be a recurring expenditure of approximately ten crore rupees in the initial years starting 2019-20, including grants given to the Authority, to be borne by the Central Government. This would include expenditure on salaries, rent for office accommodation, etc., of the Authority and it is expected that recurring expenses of the Authority would be met out of the fees and charges as may be received by the Authority.

5. The Bill, if enacted and brought into operation, would not involve any other expenditure of a recurring or non-recurring nature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 27 of the Bill empowers the Central Government to make, by notification in the Official Gazette, rules for carrying out the provisions of the proposed legislation. Sub-clause (2) enumerates the matters in respect of which such rules may be made. These matters, *inter alia*, include (a) the salary and allowances and other terms and conditions of service of Members of the Authority; (b) the composition and the manner of constitution of the Selection Committee for selection of Members of the Authority; (c) other functions to be performed by the Authority; (d) the form in which the accounts and other relevant records to be maintained and annual statement of accounts to be furnished by the Authority; (e) the form and manner of furnishing of returns and statements and other particulars by the Authority; and (f) the form of annual report of activities, policy and programmes of the Authority.

2. Clause 28 of the Bill empowers the International Financial Services Centres Authority to make, by notification in the Official Gazette, regulations for carrying out the provisions of the proposed legislation. Such regulations should be consistent with the provisions of the proposed legislation and the rules made thereunder. The matters in respect of which the Authority may make regulations, *inter alia*, include (a) the time and place of meetings of the Authority and the rules of procedure in regard to transaction of business at such meetings; (b) the salary and allowances and other terms and conditions of service of officers and other employees of Authority; (c) the manner in which the Authority may perform its functions; (d) the manner of providing information to the Performance Review Committee of the Authority; (e) the foreign currency in which transaction of financial services in International Financial Services Centres may be conducted; and (f) the powers and functions of the Authority which may be delegated.

3. The rules and regulations made under the proposed legislation shall be laid before each House of Parliament.

4. The matters in respect of which rules or regulations may be made are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

II

BILL NO. XI OF 2019

A Bill further to amend the Cinematograph Act, 1952.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Cinematograph (Amendment) Act, 2019.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

37 of 1952. 2. After section 6A of the Cinematograph Act, 1952 (hereinafter referred to as the principal Act), the following section shall be inserted, namely:—

Insertion of
new section
6AA.

‘6AA. Notwithstanding any law for the time being in force, no person shall, without the written authorisation of the author, be permitted to use any audiovisual recording device in a place to knowingly make or transmit or attempt to make or transmit or abet the making or transmission of a copy of a film or a part thereof.

Prohibition of
unauthorised
recording.

14 of 1957. *Explanation.*—For the purposes of this section, the expression “author” shall have the same meaning as assigned to it in clause (d) of section 2 of the Copyright Act, 1957.’.

3. In section 7 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

Amendment of
section 7.

“(1A). If any person contravenes the provisions of section 6AA, he shall be punishable with an imprisonment for a term which may extend to three years or with fine which may extend to ten lakh rupees or with both.”.

STATEMENT OF OBJECTS AND REASONS

The Cinematograph Act, 1952 (the Act) was enacted with a view to make provisions for the certification of cinematograph films for exhibition and for regulating exhibitions by means of cinematographs.

2. Section 3 of the Act provides for the constitution of a Board of Film Certification which certifies the films for public exhibition. The medium of cinema, the tools, the technology associated with it and its audience have undergone radical changes over a period of time and the certification process for public exhibition needs to be contemporised in order to make the process in tune with the changed time. There have also been many changes in the field of cinema with the proliferation of Television channels and cable network throughout the country. Further, the film industry is facing huge losses due to the advent of new digital technology, decline in number of the people visiting cinema theatres, increase in piracy, particularly release of pirated version of the films on internet, copyright violation, etc., which in turn causes loss to the government exchequer.

3. With a view to overcome the aforesaid difficulties and to prohibit the unauthorised recording of films, it is proposed to amend the Cinematograph Act, 1952 by a Bill, namely, the Cinematograph (Amendment) Bill, 2019, which provides for—

(i) insertion of a new section 6AA in the Act so as to provide that no person shall, without the written authorisation of the author, be permitted to use any audiovisual recording device in a place to knowingly make or transmit or attempt to make or transmit or abet the making or transmission of a copy of a film or a part thereof; and

(ii) to amend section 7 of the Act so as to punish the persons who contravenes the provisions of section 6AA for a term which may extend to three years or with fine which may extend to ten lakh rupees or with both.

4. The Bill seeks to achieve the above objectives.

Col. RAJYAVARDHAN RATHORE (Retd.)

FINANCIAL MEMORANDUM

The Bill, if enacted would not involve any financial expenditure either recurring or non-recurring from the Consolidated Fund of India.

DESH DEEPAK VERMA,
Secretary-General.